

The Conservators of Therfield Heath and Greens

The Therfield Regulation Trust
c/o Royston Golf Club, Baldock Rd, Royston, SG8 5BG
Registered Charity No. 277881
Chair: Clive Hall



THERFIELD
HEATH
& GREENS

Monday, 16 March 2026

By email to planning.control@north-herts.gov.uk
And sarah.kasparian@north-herts.gov.uk

Dear Ms Kasparian

24/01013/HYA - Hybrid application for residential development of up to 325 dwellings - Burloes

The Conservators of Therfield Heath and Greens have recently had sight of your report for the planning committee meeting on March 19th.

The Conservators are dismayed by the results of your S106 negotiations in terms of the mitigation measures for Therfield Heath SSSI. Our expectation was outlined in our response to consultation. In reality, (after indexation), you have negotiated a lower level of S106 than when this site last got planning, and before the SSSI Mitigation Strategy became a material planning consideration in 2022. We note that you have agreed 100% funding against what was requested for sport, but against the SSSI you have agreed only 28% of the per dwelling figure and none of the capital figure we requested.

Underlying Law

The Conservators need not remind you that the LPA has a duty under section 28G of the Wildlife and Countryside Act 1981 to further the conservation of the SSSI. As you know this is covered in the NPPF (which refers to Circular 06/2005). You are also aware from the Local Plan that NHC has agreed to enhance the protection of “national sites” via SP12 (paras 4.156 thru 4.169). Unfortunately none of this is coming through in your report. Councillors are required to consider the National Framework and the Local Plan under the Planning and Compulsory Purchase Act 2004.

The Natural England conditions are fundamental to the principle of development

We note that Natural England state:

*“We consider that **without appropriate mitigation** the application has potential to **damage or destroy** the interest features for which Therfield Heath Site of Special Scientific Interest (SSSI) and Local Nature Reserve (LNR) has been notified.”*

The councillors are duty bound by the Planning Members Code of Good Practice to have all relevant information before them when making a decision. In cases where they don't then it is appropriate that they DEFER or refuse.

We note the applicant has not agreed a revised Recreation Mitigation Strategy as Natural England have requested. It may be the case that you view the conditions imposed by Natural England can be passed on as conditions to be resolved with reserved matters. This however is not possible as explained in planning appeal decision APP/D0840/W/24/3354604 - Land adjacent Chymanter, Halsetown, St Ives.

That decision states:

“It has been suggested that further assessment of potential impacts on the SSSI, could be secured by condition. However, the Guidelines for Preliminary Ecological Appraisal (CIEEM, Jan 2018) make clear that, in line with Government guidance, ecological surveys should normally be completed and any necessary measures to protect biodiversity identified before permission is granted. Moreover, conditions can only be imposed in relation to Reserved Matters and cannot retrospectively secure evidence or mitigation fundamental to the principle of development.”

It is clear that the issue of is the SSSI going to be harmed or not is fundamental to the principle of development.

The Conservator position

The Conservators can see no way that a contribution of £350 per dwelling will in any way do enough to mitigate the recreational pressures caused by this development. We strive to exceed expectation with the very limited funding we have and remind you that we receive no funds from the public purse to maintain the SSSI.

We seek your urgent attention to this lack of appropriate mitigation and ask that unless you can negotiate s106 in line with our expectations you must cease to rely upon the Conservators to deliver any on-SSSI mitigation for this development. Our view is that it simply cannot be done for that level of spend.

We note that in agreeing the SSSI Mitigation strategy, NHC agreed that developments **must** provide on-SSSI management measures. You are no longer able to do this.

We remind you that the Conservators are viewed as a competent authority when considering what is and what is not acceptable mitigation for the SSSI they manage. Our view is that you need to recommend to the Councillors that this decision is DEFERRED until such time as the issue of adequate mitigation to prevent harm is resolved.

Appeal Decisions (one from each of 2023, 2024 and 2025)

In a situation where there is uncertainty if sufficient mitigation is being delivered to a SSSI, previous appeal cases have decided that the tilted balance is NOT engaged NPPF 11(d)i, and that NPPF 193 allows for the presumption against development as grounds for refusal. Councillors, like the Inspectors in those cases, should be applying the precautionary principle. Selected relevant appeal decisions include:

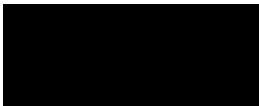
- APP/D0840/W/24/3354604 - Land adjacent Chymanter, Halsetown, St Ives;
- APP/B1930/W/23/3325998 - Land Adjacent 55 Bucknalls Drive, Bricket Wood, Hertfordshire AL2 3XJ; and
- APP/L3245/W/21/3289216 - Footbridge Farm, Tasley, Bridgnorth WV16 5LZ

All three decisions relate to SSSIs that will suffer harm as the result of a nearby development. If mitigation measures are proposed they are either inadequate or their delivery is uncertain causing the Inspector to apply the precautionary principle. In all three cases the Inspector found the un-mitigated harm or potential for harm to the SSSI **disengaged** the tilted balance in favour of sustainable development (NPPF 11(d)i). The presumption to refuse planning in NPPF 193 is also given appropriate weight, resulting in each appeal being refused.

Conclusion

The Conservators hope that you will change your recommendation to the PCC to be one of DEFER, so that these issues can be resolved and the application can return to be approved at a later date. If you think such matters can be resolved ahead of the meeting then we will make ourselves available where we can to make this so.

Yours sincerely,



Carol Fossick
Clerk to the Conservators of Therfield Heath
Clerk to the Trustees of the Therfield Regulation Trust